

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Terry J. Foley

Serial No.: 10/730,764

Filed: December 8, 2003

For: PLANTS AND SEEDS OF CORN
VARIETY LH370

Group Art Unit: 1638

Examiner: McElwain, Elizabeth F.

Atty. Dkt. No.: HFSC:014US

DECLARATION OF BIOLOGICAL CULTURE DEPOSIT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Timothy R. Kain, hereby declare:

1. I have been employed by Monsanto Company as a Research Assistant from 1995 to 1997, and since 1997 as a Patent Scientist, having as my primary responsibility the collection and control of information for the legal protection of Monsanto Company proprietary inbreds and hybrids.

2. That the following material referred to in the specification of the above-referenced application has been deposited with a depository meeting Budapest Treaty requirements:

TAXONOMIC DESCRIPTION

2500 seeds (*Zea Mays L.*)
of Corn Variety LH370

ATCC DEPOSIT NUMBER

PTA-8235

3. I affirm that should the seed deposit become nonviable or be inadvertently destroyed, I will replace such seed for at least 30 years from the date of the original deposit, or at least 5 years from the date of the most recent request for release of a sample or for the effective life of any patent issued on the above-mentioned application, whichever period is longer.

4. That with respect to availability of the seed, I affirm that the deposit will be made under conditions of assurance of:

- (a) ready accessibility thereto by the public if a patent is granted, whereby all restrictions to the availability to the public of the seed so deposited will be irrevocably removed upon the granting of the patent; and
- (b) access to the seed will be available during pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States

Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 27 APRIL 2007

Timothy R. Kain
Timothy R. Kain